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Supreme Court, U.S.
FILED
JUN 12 1971
E. ROBERT SEAVER, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

NO. ~~6150~~

DONALD and EDNA LINDSEY, and All Other Persons Similarly Situated,

Appellants,

vs.

DOROTHEA M. NORMET, THE HONORABLE WILLIAM C. BEERS, In His Capacity as Judge of the District Court of the State of Oregon for the County of Multnomah; and ALL PERSONS SIMILARLY SITUATED HOLDING OFFICE AS JUDGES OF THE DISTRICT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MULTNOMAH,

Appellees.

MOTION TO FILE A BRIEF AMICUS CURIAE

JOSEPH D. FRANK
JOHN A. DOOLEY, III
Vermont Legal Aid, Inc.
191 College Street
Burlington, Vermont

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1971

MISC. NO. 6158

DONALD and EDNA LINDSEY, and All Other Persons Similarly Situated,

Appellants,

vs.

DOROTHEA M. NORMET, THE HONORABLE WILLIAM C. BEERS, In His Capacity as Judge of the District Court of the State of Oregon for the County of Multnomah; and ALL PERSONS SIMILARLY SITUATED HOLDING OFFICE AS JUDGES OF THE DISTRICT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MULTNOMAH,

Appellees.

MOTION TO FILE A BRIEF AMICUS CURIAE

Vermont Legal Aid, Inc. moves the honorable Justices of the Supreme Court of the United States for leave to file a

brief amicus curiae in support of petitioner in this action. In support of this motion, Vermont Legal Aid, Inc. submits:

1. REFUSAL OF CONSENT -

That consent for the filing of an amicus curiae brief was denied by Respondent, Dorothea M. Normet, on May 26, 1971, through her attorneys Davis, Jensen, DeFrancq & Holmes. All other parties have consented to the filing;

2. INTEREST OF VERMONT LEGAL AID, INC. IN THIS PROCEEDING -

That Vermont Legal Aid, Inc. provides legal services to the indigent throughout the State of Vermont pursuant to grants from the United States Office of Economic Opportunity and the State of Vermont. It is the sole agency providing free legal services to the indigent in Vermont.

In the course of its representation of the poor, Vermont Legal Aid, Inc. represents about three hundred and fifty (350) clients per year in housing disputes. In the overwhelming majority of these cases, the Vermont Legal Aid client is being evicted - usually from substandard housing.. Vermont Legal Aid attorneys enter appearances and defenses in many of these cases. In fact, almost all litigated landlord and tenant disputes in Vermont are handled by Vermont Legal Aid Attorneys.

3. QUESTIONS TO BE BRIEFED BY VERMONT LEGAL AID, INC. -

This appeal presents substantial issues of the validity of state eviction procedures under the due process and equal protection clauses of the fourteenth amendment to the United States Constitution. Appellants challenge both the one-sided and summary procedural rules that restrict the ability of the tenant to defend in a meaningful way and the establishment of rights to decent, sanitary housing coupled with the total absence of a remedy for violation of these rights.

The defects raised and questioned by appellant in the context of Oregon's Forcible Entry and Wrongful Detainer Statute are endemic to all jurisdictions. While there is every reason to believe that appellant will forcefully present the Constitutional issues against the distinctive background of Oregon Statutes, See Jurisdictional Statement, 7-32, a complete resolution of this contraversy necessarily involves an evaluation of the laws of other states and the impact possible decisions would have on these laws.

Vermont eviction procedures in some respects parallel those of Oregon and in others diverge significantly. For example, while

Oregon law preconditions an appeal upon the filing of a surety bond to cover rent from the date of the action forward, See Jurisdictional Statement, App. D. at 14, Vermont law allows an appeal only if a bond for past, present and future rent is given. See 12 Vt. Stat. Ann. §§ 2432(b), 4857 (1958). Thus, the Vermont Statute, in many instances, limits the availability of appeal to a greater extent than the Oregon statute. It is this type of procedural variation and the resulting effect on the ability of the indigent tenant to have meaningful access to the judicial process that petitioner respectfully requests to bring before the court as amicus curiae.

For the reasons above stated, the motion should be granted.

Respectfully submitted,

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191 College Street
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